

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

ELMER C. RODRIGUEZ-CASTILLO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 04-2192 (JAF)

(Criminal No. 98-267)

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**O R D E R**

Petitioner, Elmer C. Rodríguez-Castillo, requests a certificate of appealability<sup>1</sup> from this court to appeal our denial on April 15, 2005, of his 28 U.S.C. § 2255 petition. See 28 U.S.C. § 2253(c)(2) (1996). A certificate of appealability may be granted only upon a substantial showing of the denial of a constitutional right. 28 U.S.C. §§ 2253(c)(2) and (3) (1996).

Upon reviewing the record, we find Petitioner's claim entirely insubstantial for the reasons stated in the Magistrate-Judge's Report and Recommendation of March 30, 2005, Docket Document No. 7, adopted by this court on April 15, 2005. Docket Document No. 8. Accordingly, we **DENY** Petitioner's request for a certificate of appealability.

**IT IS SO ORDERED.**

San Juan, Puerto Rico, this 17<sup>th</sup> day of June, 2005.

s/José Antonio Fusté  
JOSE ANTONIO FUSTE  
U. S. District Judge

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<sup>1</sup>On May 2, 2005, Petitioner filed a "Notice of Appeal" before this court, Docket Document No. 13, which contained the request for a certificate of appealability which we address herein.